

Department of Veterans Affairs

§ 21.5067

(5) Meeting one or more of the following criteria concerning the most recent period of active duty will be sufficient to prohibit a compulsory refund of contributions made during the most recent period of active duty. The individual:

(i) For the most recent period of active duty completes 24 months of continuous active duty, or the full period for which the individual was called or ordered to active duty, whichever is shorter; or

(ii) Is discharged or released from the most recent period of active duty under 10 U.S.C. 1171 (early-out discharge) or 1173 (hardship discharge); or

(iii) Is discharged or released from the most recent period of active duty for a disability incurred or aggravated in line of duty; or

(iv) Has a service-connected disability which give him or her basic entitlement to disability compensation as described in § 3.4(b) of this chapter.

(6) In computing time served for the purpose of this paragraph, the individual is not entitled for credit for service as specified in § 3.15 of this chapter. However, those periods will be included in determining if the service was continuous.

(7) The Department of Veterans Affairs shall refund all monies due the individual:

(i) On the date of the individual's discharge or release from active duty; or

(ii) Within 60 days of receipt of notice by the Department of Veterans Affairs of the individual's discharge or release, whichever is later.

(Authority: 38 U.S.C. 3202, 3223, 3232, 5303A)

(c) *Refunds following an election under § 21.5040(b).* If a veteran described in § 21.5040(h) makes an election to have a period of service credited toward his or her eligibility and entitlement under 10 U.S.C. Chapter 1606, he or she will be required to receive a refund of any contributions he or she made to the fund during that period of service.

(Authority: 38 U.S.C. 3221(f); Pub. L. 101-237)

[48 FR 36578, Aug. 12, 1983, as amended at 57 FR 38614, Aug. 26, 1992; 61 FR 20728, May 8, 1996]

§ 21.5066 Suspension of participation.

An individual may suspend participation in the program without disenrolling. If the individual suspends participation, he or she may resume participation at any time thereafter while on active duty.

(a) An individual may suspend participation any time after 12 months of participation.

(b) An individual who has participated for less than 12 consecutive months may not suspend unless the Secretary of Defense determines that the reason for the suspension is due to a personal hardship.

(Authority: 38 U.S.C. 3221)

§ 21.5067 Death of participant.

(a) *Disposition of unused contributions.* If an individual dies, the Department of Veterans Affairs shall pay the amount of his or her unused contributions to the fund to the living person or persons in the order listed in this paragraph.

(1) The beneficiary or beneficiaries designated by the individual under the individual's Servicemen's Group Life Insurance policy;

(2) The surviving spouse of the individual;

(3) The surviving child or children of the individual, in equal shares;

(4) The surviving parent or parents of the individual in equal shares.

(b) *Payments to the individual's estate.* If none of the persons listed in paragraph (a) of this section is living, the Department of Veterans Affairs shall pay the amount of the individual's unused contributions to the fund to the individual's estate.

(Authority: 38 U.S.C. 3224)

(c) *Payments of accrued benefits.* Educational assistance remaining due and unpaid at the date of the veteran's death is payable under the provisions of § 3.1000 of this chapter. For this purpose accrued benefits include the portion of the benefit represented by the individual's contribution as well as the portion included by the Department of Veterans Affairs and the Department of Defense.

(Authority: 38 U.S.C. 5121)

[47 FR 51745, Nov. 17, 1982]

§ 21.5070

ENTITLEMENT

§ 21.5070 Entitlement.

A participant is entitled to a monthly benefit for periods of time during which the individual is enrolled in, and satisfactorily pursuing, an approved program of education. The amount of the benefit will vary from individual to individual and, in some instances, from month to month as provided in § 21.5138.

(Authority: 38 U.S.C. 3231)

§ 21.5071 Months of entitlement allowed.

(a) *Entitlement based on monthly contributions.* The Department of Veterans Affairs will credit an individual with 1 month of entitlement for each month he or she contributes to the fund up to a maximum of 36 months or its equivalent in part-time training.

(Authority: 38 U.S.C. 3231)

(b) *Entitlement based on lump-sum contributions.* If an individual elects to make a lump-sum contribution, the Department of Veterans Affairs will credit an individual with 1 month of entitlement for:

- (1) Every \$100 included in the lump sum, or
- (2) Every amount included in the lump sum which:
 - (i) Is at least \$25 but no more than \$100,
 - (ii) Is evenly divisible by five, and
 - (iii) Is specifically designated by the individual at the time he or she makes the contribution.

(Authority: 38 U.S.C. 3222(d))

(c) *Entitlement based on both monthly and lump-sum contributions.* (1) If the individual makes both monthly and lump-sum contributions, the Department of Veterans Affairs will:

- (i) Compute the entitlement due to each type of contribution separately under paragraphs (a) and (b) of this section, and
- (ii) Will combine the results of the computations to determine the individual's total entitlement.

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(2) In no event will an individual's entitlement exceed 36 months or its equivalent in part-time training.

(Authority: 38 U.S.C. 3222(d), 3231)

[47 FR 51745, Nov. 17, 1982, as amended at 48 FR 50530, Nov. 2, 1983]

§ 21.5072 Entitlement charge.

The Department of Veterans Affairs shall determine the entitlement charge for each payment in the same manner for all individuals regardless of whether they are on active duty. Unless the circumstances described in paragraph (i) of this section apply to a service-member or veteran, VA will use paragraphs (a) through (h) of this section to determine an entitlement charge.

(a) *General.* (1) Except as provided in paragraphs (b) through (i) of this section, VA will make a charge against entitlement as follows:

(i) The Department of Veterans Affairs will charge an individual who is a full-time student 1 month's entitlement for each monthly benefit paid to him or her.

(ii) The Department of Veterans Affairs will charge an individual who is other than a full-time student 1 month's entitlement for each sum of money paid equivalent to what the individual would have been paid had he or she been a full-time student for 1 month.

(2) When the computation results in a period of time other than a full month, the entitlement charge will be prorated.

(Authority: 38 U.S.C. 3231)

(b) *Secondary school program.* (1) The Department of Veterans Affairs will make no charge against the entitlement of an individual:

(i) Who is pursuing a course, courses or a program of education leading to a secondary school diploma or an equivalency certificate, and

(ii) Whose educational assistance allowance is the monthly rate of the tuition and fees being charged to him or her for the course.

(2) The Department of Veterans Affairs will make a charge (in the same manner as for any other residence training) against the entitlement of an individual who: